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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/113,491	07/10/1998	ROSS W. CALON	IBN-0002	8100

24739 7590 04/14/2003

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NGUYEN, TOAN D

ART UNIT	PAPER NUMBER
2665	24

DATE MAILED: 04/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/113,491	CALLON ET AL. <i>(D)</i>
	Examiner Toan D Nguyen	Art Unit 2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 January 2003.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 2-22,24-34 and 36-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 2-22,24-34, and 36-38 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 2-22 and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Endo et al. (U.S. Patent 5,764,624) in view of Moy (U.S. Patent 6,031,817).

For claims 2, 4, 6-7, 9-12, 14, 27 and 30-33, Endo et al. disclose ATM switching system and path changing method, comprising:

for at least one of the nodes, generating and storing an alternate output route out of the node such that, in the event that data to be transferred toward a destination node cannot be forward to the next successive node over the link associated with the destination node, the at

least one of the nodes can forward the data over the alternate output route toward the destination node (figure 9A, col. 7 lines 44-48);

after generating and storing the alternate output route, if data to be transferred toward a destination node cannot be forwarded to the next successive node over the link associated with the destination node, forwarding the data over the alternate output route toward the destination node (col. 7 lines 48-52).

However, Endo et al. do not disclose embedding the data in virtual packets addressed for the alternate route. In an analogous art, Moy discloses embedding the data in virtual packets addressed for the alternate route (figure 5, col. 10 lines 21-49). One skilled in the art would have recognized a communication link/virtual circuit table to use teaching of Moy in the system of Endo et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the communication link/virtual circuit table as taught by Moy in Endo et al.'s system with the motivation being to re-establish the virtual circuits (col. 10 lines 38-49).

For claims 3, 21 and 28, Endo et al. disclose the alternate output is a connectionless route (figure 11, col. 8 lines 4-7).

For claims 5, 8, 22 and 29, Endo et al. disclose the output alternate output route is a connection-oriented route (col. 9 lines 10-20).

For claim 20, Endo et al. disclose at least one node of the network is capable of operating in both a connectionless environment and a connection-oriented environment (col. 8 lines 4-7 and col. 9 lines 10-20).

For claims 15-19 and 34, Moy discloses the information that data can not be transferred between the at least one of the nodes and the next successive node includes a time at which

Art Unit: 2665

nodes receiving the information should performed a recovery operation such that recovery operations at a plurality of nodes on the network are synchronized (col. 9 lines 3-26).

3. Claims 24-25 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Endo et al. (U.S. Patent 5,764,624) in view of Moy (U.S. Patent 6,031,817) further in view of Ferstenberg et al. (U.S. Patent 5,873,071).

For claims 24-25 and 36-37, Endo et al. in view of Moy do not disclose the network comprises at least a portion of the Internet and intranet. In an analogous art, Ferstenberg et al. disclose the network comprises at least a portion of the Internet and intranet (col. 16 line 11). One skilled in the art would have recognized internet and intranet to use teaching of Ferstenberg et al. in the system of Endo et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the internet and intranet as taught by Ferstenberg et al. in Endo et al.'s system with the motivation being to use a private and public network (col. 16 line 11).

4. Claims 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Endo et al. (U.S. Patent 5,764,624) in view of Moy (U.S. Patent 6,031,817) further in view of Gerzberg et al. (U.S. Patent 6,229,810B1).

For claims 26 and 38, Endo et al. in view of Moy do not disclose the network comprises at least a portion of an extranet. In an analogous art, Gerzberg et al. disclose the network comprises at least a portion of an extranet (figure 18, col. 15 lines 38-48). One skilled in the art would have recognized the extranet to use teaching of Gerzberg et al. in the system of Endo et al. Therefore, it would have been obvious to one of ordinary skill in the art at the time invention, to use the extranet as taught by Gerzberg et al. in Endo et al.'s system with the motivation being to

provide the flexibility of point-to-point tunneling protocol allows the implementation to be client initiated or client transparent, but does require IP support (col. 15 lines 42-44).

***Response To Arguments***

5. Applicant's arguments filed on January 30, 2003 have been fully considered but are not persuasive.

The applicant argues with respect to claims 2 and 27, that Moy fails to teach or suggest utilizing a "virtual packet" for forwarding data packets through an alternate route or bypass virtual circuit as disclosed and claimed in applicant's invention. The examiner disagrees. The Moy secondary reference is used to supplement sufficiency for the primary reference Endo et al. Therefore, the primary reference Endo et al. alone can be used to reject a "virtual packet" for forwarding data packets through an alternate route or bypass virtual circuit in claims 2 and 27.

Applicant's attention is directed to the primary reference Endo et al. patent at col. 9 lines 56-65 (figure 9B and figure 11), where Endo et al. clearly teach "The selector 27 feeds the alternate output (i.e., the alternate output VPI="7", the alternate output VCI="54", and the alternate output line information="00101000") to the header conversion unit 22, because the rerouting indication signal from the rerouting detector 26 is at "1" and because the valid signal is output from the table address generator 28. As a result, the ATM packet is sent out to the output lines L3 and L5, as shown in fig. 9(B)."

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2665

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

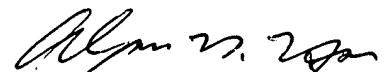
***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D Nguyen whose telephone number is 703-305-0140. The examiner can normally be reached on Monday- Friday (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 703-308-6602. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

T.N.  
T.N.



ALPUS H. HSU  
PRIMARY EXAMINER